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OFFICE OF PETITIONS

In re Patent No. 7,087,097 :
Issued: August 8, 2006 :
Application No. 10/009,542 : DECISION DISMISSING PETITION
Filed: June 3, 2002 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 942640-18 :

This is a decision on the petition, filed August 7, 2006, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is dismissed.

Petitioner states that the correct assignee's name is BIOAGE GMBH and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by

¹ See Official Gazette of June 22, 2004


3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to BIOAGE GMBH has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that BIOAGE GMBH was the assignee of record at the time of issuance of the instant application into a patent. Note also 35 U.S.C. § 152.

In view of the above, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth BIOAGE GMBH, as the assignee. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision must accompany the request for a Certificate of Correction.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3208. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.



Karen Creasy
Petitions Examiner
Office of Petitions